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February 12, 2019

VIA ECF AND FAX

Honorable Paul G. Gardephe, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 705
New York, New York 10007

Re: *Starr Surplus Lines Insurance Company and Houston
Casualty Company v. CRF Frozen Foods, LLC*
Civil Action No.: 17-cv-1030 (PGG)
Our File No.: 3351.63

Dear Judge Gardephe:

Pursuant to Your Honor's instructions during the February 5, 2019 conference, we write to inform the Court that Houston Casualty Company ("HCC") will not be submitting a motion for summary judgment. It is our understanding that co-Plaintiff Starr Surplus Lines Insurance Co. ("Starr") and Defendant CRF Frozen Foods, LLC ("CRF") also will not file summary judgment motions.

As Your Honor indicated during last week's conference, the case is now ready to proceed to trial on the limited issue of whether Starr and HCC are entitled to rescind their primary and excess insurance policies, respectively. HCC advises the Court that its rescission action will primarily focus on CRF's material misrepresentations and non-disclosures concerning circumstances and events that took place between September and October 2015, when CRF doubled its insurance limits by obtaining excess coverage from HCC.

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Because rescission claims are equitable in nature, CRF is not entitled to a jury trial. See, Schuyt v. Rowe Price Prime Reserve Fund, Inc., 835 F.2d 45 (2d Cir. 1987). HCC is prepared to brief this issue if the Court so instructs. Accordingly, HCC will prepare to proceed via a bench trial on Phase I of this matter, in accordance with a schedule to be set by the Court.

Respectfully submitted,

MOUND COTTON WOLLAN
& GREENGRASS LLP

By: /s/ Jeffrey S. Weinstein
Jeffrey S. Weinstein

JSW:cer

cc: All counsel of record via ECF